

BEST BEST & KRIEGER[®]

ATTORNEYS AT LAW

INDIAN WELLS
(760) 568-2611

IRVINE
(949) 263-2600

LOS ANGELES
(213) 617-8100

ONTARIO
(909) 989-8584

655 West Broadway, 15th Floor
San Diego, California 92101
(619) 525-1300
(619) 233-6118 Fax
BBKlaw.com

RIVERSIDE
(951) 686-1450

SACRAMENTO
(916) 325-4000

WALNUT CREEK
(925) 977-3300

Joseph Sanchez
(619) 525-1300
Joseph.Sanchez@bbklaw.com

October 14, 2019

VIA EMAIL AND U.S. MAIL

Blaire Baily, Esq.
Regional Attorney
Public Employment Relations Board
425 W. Broadway, Suite 400
Glendale, CA 91204-1269

Re: *El Rancho Administrators & Supervisors Association v. El Rancho Unified School District*
Unfair Practice Charge No. LA-CE-6498-E

Dear Ms. Baily:

This letter is provided by the El Rancho Unified School (“District”) under PERB Regulation No. 32620, in response to the above-referenced unfair practice charge (“Charge”). The Charge filed by El Rancho Administrators & Supervisors Association (“ERASA”) is without merit. The allegations in the Charge fail to state a violation of the Educational Employment Relations Act (“EERA”).

INTRODUCTION

ERASA claims that the District, through its School Board, took specific actions to interfere with, discriminate and retaliate against its bargaining unit members. As explained in detail below, the District’s actions regarding ERASA members were based on legitimate business decisions in the best interests of the District and in no way related to any protected labor activities. In fact, the actions of ERASA surrounding the filing of this Charge, coupled with the Charge’s failure to state specific facts supporting a *prima facie* case, suggest that the filing of this Charge is nothing more than a political move orchestrated by ERASA in an attempt to discredit certain Board members.

Blaire Baily
October 14, 2019
Page 2

The charge should be dismissed in its entirety because it does not provide facts establishing the requisite *prima facie* case of discrimination/retaliation or interference under the EERA. ERASA has failed to meet its burden of establishing that the District's decision to either release or reassign certain ERASA members was "because of" the exercise of protected EERA rights or that there was any interference with ERASA protected rights. Further, several of the allegations stated in the Charge are untimely.

STATEMENT OF FACTS

The Charge filed by ERASA centers around the District's decision to relieve certain administrators from their administrative positions in the Spring of 2019 including Sam Genis, David Sermenno, and Hector Vasquez. It has been well established in California that school administrators serve at the pleasure of the governing board. *Hentschke v. Sink* (1973) 34 Cal.App.3d 19; *Education Code* 44951. In order to release an administrator for the following school year, the employee must be given notice prior to March 15 that the District may remove them from their administrative assignment for the following year.¹ It is not uncommon for school districts, in the best interests of the district, to remove administrators from their current positions and place them back into a classroom position.

As set forth in the attached Declaration from former District Superintendent Karling Aguilera-Fort (Exhibit 1), in the Spring of 2019, he with input of his cabinet, made recommendations to the School Board as to which administrators should be removed from their positions for the 2019-2020 school year in the best interests of the District. Aguilera-Fort provided a document to the Board outlining the reasons for each of his recommendations during the April 16, 2019 Board meeting. At that meeting, the Board voted to reassign four certificated administrators back to the classroom (including Genis, Sermenno, and Vasquez) and one certificated administrator into an alternate certificated administrator position. The Board also voted to release one probationary administrator.

The Board's action to remove certain administrators, and in particular Sam Genis, sparked a political movement by certain employee and public factions to seek the removal of certain Board members through a recall effort. It is the District's belief that this PERB Charge is nothing more than a political ploy used to discredit the Board members who voted for the Superintendent's recommendation to release certain administrators. In fact, the District first learned about the Charge in a newspaper story released detailing this PERB Charge which was released prior to the District even receiving notice of the Charge. In addition, the lack of specificity, nexus, and timeliness of the allegations support that this Charge is more of a political tactic than a legitimate attempt to protect EERA rights. This is unfortunate because of the

¹ All three of these employees were provided the required March 15 notice. Copies of these notices can be provided upon request.

Blaire Baily
October 14, 2019
Page 3

District dollars that are being expended to defend against these baseless charges. As will be established in further detail below, each of the allegations set forth in the Charge fail to state a *prima facie* case of an unfair labor practice under the EERA.

ARGUMENT

A. THE CHARGE FAILS TO MAKE A PRIMA FACIE CASE OF RETALIATION

The Charge states that former ERASA members Sam Genis, David Sermenio, Hector Vasquez, and Rosalio Medrano were “fired” due to protected activities.² In order to establish a *prima facie* case of discrimination or retaliation in violation of EERA section 3543.5(a), the charging party must demonstrate that: (1) the employee exercised rights under EERA; (2) the employer had knowledge of the exercise of those rights; (3) the employer took adverse action against the employee; and (4) the employer took the action because of the exercise of those rights. *Novato Unified School District* (1982) PERB Decision No. 210. As set forth below, the Charge fails to set forth a *prima facie* case of discrimination/retaliation for each of the named administrators.

1. Sam Genis

Charging Party’s Allegations Regarding Genis’ Protected Activity are Unclear and Untimely

PERB regulation 32615(a)(5) requires that a charge must contain “[a] clear and concise statement of the facts and conduct alleged to constitute an unfair practice.” A charge must contain the “who, what, when, where, and how” of an unfair practice. Mere legal conclusions are insufficient to state a *prima facie* case. *State of California Department of Food and Agriculture* (1994) PERB Decision No. 1071-S; *United Teachers-Los Angeles (Ragsdale)* (1992) PERB Decision No. 944.

It is unclear what protected activity ERASA is alleging in this instance led to the adverse action. The only specific allegation is that on or about March 22, 2016, Genis alleges that two Board Members had a conversation with Genis about ERASA’s support of ERFT. This alleged conversation occurred over three years from the specified adverse action.³ This is well past the six month statute of limitations. *Coachella Valley Mosquito and Vector Control District v.*

² The Charge also references employees from the El Rancho Federation of Teachers (“ERFT”). ERASA does not have standing to assert an ULP claim on behalf of another union’s members. Therefore, any claims of retaliation against ERFT members will not be addressed. That said, all allegations that the District targeted and retaliated against ERFT members are false and completely without merit.

³ Both Mr. Lara and Mr. Orosco deny the allegations set forth in paragraph 31 of the Charge.

Blaire Baily
October 14, 2019
Page 4

California Public Employment Relations Board (2005) 35 Cal.4th 1072. PERB also held in *Los Angeles Unified School District v. Peters* (2016) PERB Decision No 2479, that approximately one year (Fall 2009 to December 2010) was “too great to support an inference of retaliatory motive.” In this case, there is a full three years between the alleged protected activity and the alleged adverse action. Also, there are no other specific facts in the Charge regarding any retaliatory or discriminatory conduct toward Genis during that three year period. The Charge only references speculation and conjecture with no dates or specifics.

ERASA also implies that the Board may have sought to release Mr. Genis based on his Union President status. This allegation is not true. PERB has held that status of a union representative alone is insufficient to satisfy the timing element without some other protected activities around the time of the alleged adverse actions. *Chula Vista Elementary Education Association* (1997) PERB decision No. 1232. Again, the Charge sets forth no specific protected activities on the part of Genis around the time of the notice of his removal as an administrator.

Even if a contemporaneous protected activity could be established, the District can demonstrate that Genis’ removal was for a legitimate business reason in the best interests of the District. As set forth in Aguilera-Fort’s declaration, he presented the reasons for the removal of Genis to the Board in a spreadsheet along with the other administrators he recommended removing from their positions.⁴ The Charge attempts to make a point by alleging that Aguilera-Fort did not make the recommendations on whom should be released on his own, but was directed to by Board members Lara and Orosco. While Aguilera-Fort states in his Declaration that this is untrue, even if it was true, that would not be evidence of an unfair labor practice charge because there is still no proof that the decision was “because of” protected union activity. As stated above, administrators serve at the will of the Board.

It is also important to note that there are no facts supporting that the decision-makers, in this case the Superintendent and the full Board, had knowledge of the exercise of the alleged protected rights. This is even more apparent given the three year length between the alleged protected rights and the decision to release Genis. Superintendent Aguilera-Fort was not even employed by the District in 2016 and Board member Ibarra was not a member of the Board at that time.

In addition, the Charge does not present facts that demonstrate the required nexus between Genis’ alleged protected activity and the alleged adverse actions. Therefore, the charge should be dismissed in its entirety regarding Genis for failure to establish a *prima facie* case of retaliation/discrimination under EERA section 3543.5(a).

⁴ We did not provide the referenced spreadsheet in light of the privacy interests of the administrators listed on the document. The District can provide that document upon request.⁴

Blaire Baily
October 14, 2019
Page 5

2. David Sermenno

The Charging Party Fails to Establish Sermenno Engaged in Protected Activity and/or That Board Had Knowledge of the Exercise of Protected Activity

As with the Genis' allegations, it is unclear exactly what protected activity Sermenno engaged in from the allegations set forth in the Charge. It is not set forth in a clear and concise statement of facts as required by PERB regulation 32615(a)(5). In addition, as with Genis, there is no specific allegation of the date of the alleged adverse action or the protected activity. It appears that the "alleged" protected activity was that Sermenno was directed by the Superintendent to not use his school site for a parent meeting. Parent meetings have nothing at all to do with union activity. There is no explanation as to how this can be seen as protected union activity. Allowing parent meetings is not protected activity. Therefore, the element of establishing the employee exercised rights under EERA is not met.⁵

Even if the alleged activity could be seen as protected activity under the EERA, the Charge does not allege any facts to support that the decision-makers had knowledge of the protected activity. In fact, the protected activity is alleged to have occurred on April 18, 2019 which was two days after the Board voted to remove Sermenno as a principal. See attached Board minutes from April 16, 2019 (Exhibit 2). Therefore, there is no way the Board could have "retaliated" against Sermenno based on conduct that had not even occurred yet.

As set forth above, even if a protected activity could be established, the District can demonstrate that Sermenno's removal was for a legitimate business reason in the best interests of the District. In addition, the charge does not present facts that demonstrate the required nexus between Sermenno's alleged protected activity and the alleged adverse actions. Therefore, the charge should be dismissed in its entirety regarding Sermenno for failure to establish a *prima facie* case of retaliation/discrimination under EERA section 3543.5(a).

3. Rosario Medrano

The Portions of the Charge Related to Medrano were Filed Beyond The Six Month Statute of Limitations

PERB is prohibited from issuing a complaint regarding any charge under the EERA based upon an alleged unfair practice which occurred more than six months prior to the filing of the charge. *Coachella Valley Mosquito and Vector Control District v. California Public Employment Relations Board* (2005) 35 Cal.4th 1072. This charge was filed with PERB in

⁵ As stated by Aguilera-Fort in his Declaration, the reason he approached Sermenno about the parent meetings was because Sermenno had not followed proper protocol regarding scheduling parent meetings.

Blaire Baily
October 14, 2019
Page 6

August of 2019. As alleged in the Charge, Medrano was released from the District in January 2018, over one year-and-a-half before the Charge was filed. For this reason, the portion of the Charge related to Medrano must be dismissed as untimely.

Even if the allegations in the Charge were timely, the District can clearly demonstrate that it had a legitimate business reason for terminating Medrano. The statement in the Charge that Medrano was forced out of the District “for reasons unknown” is completely false and misleading. Medrano was released from the District for dishonesty. Specifically, Medrano failed to report on his employment application with the District that he was previously terminated from another school. The District has several documents demonstrating that Medrano was fully aware of the reasons for his dismissal including a decision from the California Unemployment Appeals Board denying Medrano unemployment benefits because of his misconduct regarding his employment application.⁶

Medrano was also the subject of a public reproof pursuant to Education Code 44421 from the State of California Commission on Teacher Credentialing for his dishonest conduct regarding his employment application for the District. Education Code 44421 states, “[t]he Commission on Teacher Credentialing shall privately admonish, **publicly reprove**, revoke or suspend for immoral or unprofessional conduct, or for persistent defiance of, and refusal to obey, the laws regulating the duties of persons serving in the public school system, or for any cause that would have warranted the denial of an application for a credential or the renewal thereof, or for evident unfitness for service.” (emphasis added). The Commission approved the public reproof of Medrano at its April 2018 Commission meeting. The minutes and Agenda for the April 2018 meeting can be found at <https://www.ctc.ca.gov/commission/mctings>. Because this is an approved action by a State agency, this should be accepted as fact and definitive proof that the District had a legitimate reason for releasing Medrano and that his release was not “because of” his engagement in any protected activity.

It is important to note that any of the allegations raised or stated by Medrano should be disregarded given his propensity for dishonesty.⁷ In addition, the fact that such a blatant falsehood (that Medrano was unaware of the reasons for his dismissal) was included in the Charge should also discredit the entire Charge. The CTC publicly reproved his misconduct and the Unemployment Board denied him benefits for his misconduct. How can ERASA/Medrano state that he was terminated for reasons “unknown” when two state agencies made public findings otherwise.

For the reasons stated above, the allegations regarding Medrano should be dismissed.

⁶ The EDD Appeal documents can be provided upon request.

⁷ Lara and Orosco deny engaging in any of the activity alleged in the Charge regarding Medrano.

Blaire Baily
October 14, 2019
Page 7

4. Hector Vasquez

The Charging Party Fails to Establish Vasquez Engaged in Protected Activity and/or That Board Had Knowledge of the Exercise of Protected Activity

No details were provided in the Charge as to when the alleged conduct occurred regarding Vasquez. There is also no clear statement of what exactly the protected conduct was that Vasquez engaged in. The Charge fails to state that Vasquez engaged in any protected conduct under EERA. Therefore, these allegations should be dismissed for failure to state “[a] clear and concise statement of the facts and conduct alleged to constitute an unfair practice.”

The Charge is also misleading as to Vasquez’s claims as it alleges that Board Member Orosco approached Vasquez to discuss matters that “were properly the job responsibilities of the Superintendent and did not fall under the purview of the Board of Education.” What the Charge fails to mention is that the student referred to in the Charge as Student A was Orosco’s daughter. Just because Mr. Orosco is a Board member, does not mean he loses his rights as a parent to discuss matters regarding his own children with the Principal. While Orosco denies engaging in any intimidating or bullying behavior or for asking for special treatment, he did meet with Principal Vasquez as it was his right to do so. Just like any other parent, Mr. Orosco was trying to protect his child against bulling. That said, even if everything stated in the Charge were true regarding Mr. Vasquez, it still does not state a *prima facie* case that he was dismissed for engaging in protected activity.

As set forth above, even if a protected activity could be established, the District can demonstrate that Vasquez’s removal was for a legitimate business reason in the best interests of the District. In addition, the Charge does not present facts that demonstrate the required nexus between Vasquez’s alleged protected activity and the alleged adverse actions. Also, the Charge does not allege any facts to support that the decision makers had knowledge of the protected activity. Therefore, the charge should be dismissed in its entirety regarding Vasquez for failure to establish a *prima facie* case of retaliation/discrimination under EERA section 3543.5(a).

5. Other Allegations

The Charge also alleges violations of EERA sections 3534(a), 3543.1(a)(b), and 3543.5 (b) and (d). However, nowhere in the Charge does it allege any specific facts that state a clear and concise statement of the facts and conduct alleged to constitute an unfair practice with regards to these sections.

3534(a)

This is not an EERA section and should be disregarded.

Blaire Baily
October 14, 2019
Page 8

3543.1(a)(b)

There are no facts anywhere in the complaint that refer to violations of this section. The only reference regarding the use of District facilities involves a parent meeting and not an ERASA meeting. These allegations should be disregarded and dismissed.

3543.5 (b) and (d)

It appears that the Charge is attempting to allege that simply by exercising its right under the Education Code to remove an at-will administrator (ERASA President Genis), the Board “interfered with ERASA’s ability to choose their own representatives.” The Charge alleges no other facts regarding this allegation. If that was all it took to prove interference without more, then a District could never release any union representative for fear of interference. It is important to note that Genis is still representing the Union as Executive Director. This allegation should be dismissed for failure to state a *prima facie* case.

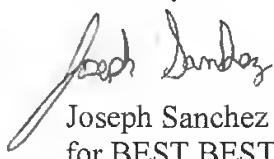
CONCLUSION

In conclusion, the District respectfully requests that the Unfair Practice Charge be dismissed in its entirety as no violation of the EERA can be established in this case. As stated above, it is the District’s contention that the filing of this Charge is nothing more than a political move orchestrated by ERASA in an attempt to discredit certain Board members rather than a legitimate attempt to protect EERA rights.

If you have any questions or need additional information, please do not hesitate to contact me.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Sincerely,



Joseph Sanchez
for BEST BEST & KRIEGER LLP

cc: Jeffrey Boxer (via U.S. Mail)
Dr. Frances Esparza (via email)

EXHIBIT 1

1 JOSEPH SANCHEZ, Bar No. 186622
2 joseph.sanchez@bbklaw.com
3 Best Best & Krieger LLP
4 655 West Broadway, 15th Floor
5 San Diego, California 92101
6 Telephone: (619) 525-1300
7 Facsimile: (619) 233-6118

8
9
10 Attorneys for Respondent
11 EL RANCHO UNIFIED SCHOOL DISTRICT

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

STATE OF CALIFORNIA
PUBLIC EMPLOYMENT RELATIONS BOARD

EL RANCHO ADMINISTRATORS AND
SUPERVISORS ASSOCIATION
(ERASA),

PERB Case No. LA-CE-6498-E

DECLARATION OF KARLING AGUILERA-FORT

Charging Party,

v.

EL RANCHO UNIFIED SCHOOL
DISTRICT,

Respondent.

DECLARATION OF KARLING AGUILERA-FORT

I, Karling Aguilera-Fort, declare as follows:

1. I was formerly Superintendent of the El Rancho Unified School District (the "District"), a public school district located in the city of Pico Rivera, California. The District offices are located at 9333 Loch Lomond Drive, Pico Rivera, CA 90660.

2. I was Superintendent of the District for approximately two years. I resigned from my position as Superintendent of the District following the end of the 2018-2019 school year. I am currently Superintendent of the Oxnard School District.

3. I have been informed of the Unfair Practice Charge (the "Charge") filed by ERASA regarding former District Administrators Rosario Medrano, Hector Vasquez, Samuel Genis and David Sermenio and have reviewed the Charge. I make this declaration based on my review of statements attributed to me in the Charge which are false and/or untrue. The facts stated herein are personally known to me, except where stated on information and belief, and if stated on information and belief, I believe them to be true. If called as a witness I could and would competently testify thereto.

4. Paragraph 17 of the Charge states, "Former Superintendent Karling Aguilera-Fort specifically informed multiple individuals, including then-ERASA President Sam Genis, that he was instructed by the Board of Education to remove certain principals, and that it was not his decision as Superintendent."

5. The statements contained in Paragraph 17 of the Charge are false. I was not instructed by the Board to remove certain principals prior to my recommendation to the Board on or about April 16, 2019. The decision as to which administrators that I would recommend to the Board to be released or reassigned was my decision, along with input from my cabinet.

6. Paragraph 19 of the Charge states, "Former Superintendent Aguilera-Fort also informed ERASA President Genis that all of the removed principals would receive evaluations that meet standards. Aguilera-Fort resigned and left the District without having provided written evaluations for any administrator within the District."

7. The statements contained in Paragraph 19 of the Charge are false. I did not make
61036.0020732418533.1 1

1 these statements. I did meet with Administrator Genis and indicated that while there were areas
2 in which he met standards, there were certain areas in which he needed to improve.

3 8. Paragraph 21 of the Charge states, “Board President Lara and Vice President
4 Orosco have repeatedly stated that the decision to relieve administrators of their positions was
5 solely up to Aguilera-Fort. Aguilera-Fort specifically informed ERASA President Sam Genis and
6 others that this is false. Aguilera-Fort stated that he hoped “to be around long enough to clear his
7 name and his actions” concerning the mistreatment of employees within the District during his
8 tenure.”

9 9. The statements contained in Paragraph 21 are false. The implication that the
10 decision to relieve which administrators of their positions was not up to me is false as this was my
11 decision along with input from my cabinet. On or about April 16, 2019, I made a
12 recommendation to the Board as to which administrators should be released from their positions
13 and provided the reasons and rationales for all administrators that I believed should have been
14 replaced.

15 10. Paragraph 25 of the Charge states, “When speaking to Board Member Dr. Teresa
16 Merino on May 6, 2019, the Superintendent could not provide any rationale whatsoever for
17 removing the individuals who were fired or demoted from their positions.”

18 11. The statements contained in Paragraph 25 are false. I provided Dr. Merino with
19 my reasons and rationales for all administrators that I believed should have been replaced.
20 However, it is my understanding that Dr. Merino was not satisfied with the reasons given for my
21 decision.

22 12. Paragraph 27 of the Charge states, “Villon will testify that Superintendent
23 Aguilera-Fort was instructed to watch Genis for the possibility of removing him, “keep an eye on
24 him” with the intent of building a case to get rid of Mr. Genis. Superintendent Aguilera-Fort
25 specifically told Villon that Orosco and Lara were “not impressed” with Genis. Their plan was to
26 paper Genis with negative evaluations and force him out.”

27 13. The statements contained in Paragraph 27 are untrue. I was never instructed by
28 any Board Member to watch Administrator Genis with the possibility of removing him or forcing
61036.00207\32418533.1

1 him out of his position.

2 14. Paragraph 30 of the Charge states, "Villon specifically went to Superintendent
3 Aguilera-Fort to have him address the issues of Orosco bullying Vasquez, which Superintendent
4 Aguilera-Fort promised Villon that he would do. In fact, he never followed up."

5 15. The statements contained in Paragraph 30 are untrue.

6 16. Paragraph 36 of the Charge states, "On April 18, 2019, Sermenio was approached
7 by Superintendent Aguilera-Fort concerning the use of classrooms for parent meetings. Parents
8 and teachers traditionally have used the District school sites for joint meetings to discuss matters
9 of educational concern, a practice that Board President Lara and Vice President Orosco wanted to
10 prohibit."

11 17. The statements contained in Paragraph 36 are untrue.

12 18. Paragraph 37 of the Charge states, "Superintendent Aguilera-Fort told Sermenio
13 that these parent meetings required approval and indicated that the Board of Education was
14 watching. On this point, Superintendent Aguilera-Fort told Sermenio, "Some things are out of my
15 control.""

16 19. The statements contained in Paragraph 37 are untrue. I never told Administrator
17 Sermenio that "some things are out of my control." Instead, the meeting scheduled by the parents
18 did not go through the appropriate process and proper channels. As Superintendent, I provided
19 information as to the proper procedures for a meeting like this to take place. Those procedures
20 were not followed.

21 I declare under penalty of perjury, under the laws of the State of California, that the
22 foregoing is true and correct.

23 Executed this 14 day of October, 2019 in Pico-Rivera, California.

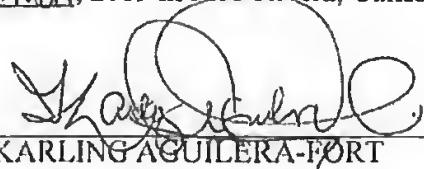
24
25 
26 KARLING AGUILERA-FORT
27
28

EXHIBIT 2

Regular Meeting of the Board of Education

El Rancho USD

April 16, 2019 6:30PM

**5:30 pm Closed Session 6:30 pm Open Session Pico Rivera City Hall 6615
Passons Boulevard Pico Rivera, CA 90660 Public Participation During Board
Meetings Public Comments is the time during the meeting when members of
the audience may address the Board. For matters listed on the agenda,
complete a blue comment card. For matters not listed on the agenda, complete
a yellow comment card. Please submit all cards prior to the start of the
meeting.**

1. CALL TO ORDER

Minutes:

The meeting was called to order by Jose Lara, President at 5:32
p.m.

1.A. ROLL CALL - Members of the Board of Education

Quick Summary / Abstract:

Jose Lara, President

Gabriel A. Orosco, Vice President

Leanne M. Ibarra, Clerk

Dr. Teresa L. Merino, Member

Carolyn Castillo, Member

1.B. ROLL CALL - Members of the Administrative Cabinet

Quick Summary / Abstract:

Karling Aguilera-Fort, Superintendent

Jacqueline Cardenas, Assistant Superintendent, Educational
Services

Reynaldo Reyes, Assistant Superintendent, Human Resources

Dr. Alejandro Rojas, Assistant Superintendent, Business Services

Dora Soto-Delgado, Director, Student Services and Special Projects

Dean Cochran, Director, Special Education

Roberta Gonzalez, Director, Early Learning Program

Minutes:

Roberta Gonzalez - Absent

2. PUBLIC COMMENTS ON CLOSED SESSION ITEMS

Minutes:

- Lilia Carreon addressed the Board regarding "pink slips" being issued to District
administrators. She stated she would like to have resolution with labor
negotiations.

- Tony Hernandez requested for the Board to carefully consider its decisions related to administrators.

3. ADJOURN TO CLOSED SESSION

Minutes:

- 5:36
p.m.

4. CLOSED SESSION

Quick Summary / Abstract:

Closed Session is conducted in accordance with applicable sections of California law. Closed Sessions are not open to the public. If additional time is required, the Board will reconvene Closed Session at the end of the regular meeting.

4.A. Student Discipline (Pursuant to Education Code § 35146; § 48918 (c))



Quick Summary / Abstract:

Student No. 08-2018/2019

4.B. Public Employee Discipline/Dismissal/Release/Reassignment (Pursuant to Government Code §54957)



Quick Summary / Abstract:

No. 18:19:03-06

No. 18:19:03-07

No. 18:19:03-08

No. 18:19:03-09

No. 18:19:03-10

No. 18:19:03-11

4.C. Conference with Labor Negotiators (Pursuant to subdivision (a) of Government Code §54957.6)

Quick Summary / Abstract:

Agency Designated Representative: Reynaldo Reyes, Assistant Superintendent, Human Resources

Employee Organizations: ERFT/CSEA/ERASA/Other Unrepresented Employees

5. RECONVENE IN OPEN SESSION - 6:30 p.m.

Minutes:

Open Session reconvened at 6:35 p.m.

5.A. PLEDGE OF ALLEGIANCE

Quick Summary / Abstract:

RECORDER - Sandy Watkins

INTERPRETER - Olga Montano-
Briseno

VISITORS - Register No. 23-2018/2019

6. ADOPTION OF AGENDA

6.A. Approve the Agenda for the Regular Board of Education Meeting of April 16, 2019.

Actions:

Motion

Passed with a motion by Jose Lara and a second by Gabriel Orosco.

Vote:

Yes Carolyn Castillo.
Yes Leanne Ibarra.

Yes Jose Lara.

Yes Dr. Teresa Merino.

Yes Gabriel Orosco.

Minutes:

Amendments:

- Address item 16.A.1 at 7:30 p.m.

7. PROCEDURAL ITEMS

7.A. Limit Board member's discussion time to three (3) minutes per agenda item.

Rationale:

In order to conduct District business in an orderly and efficient manner, each Board member's discussion time will be limited to three (3) minutes per agenda item.

Recommended Motion:

Limit Board member's discussion time to three (3) minutes per agenda item.

Actions:

Motion

Limit Board member's discussion time to three (3) minutes per agenda item.

Passed with a motion by Gabriel Orosco and a second by Leanne Ibarra.

Vote:

Yes Carolyn Castillo.
Yes Leanne Ibarra.

Yes Jose Lara.

Yes Dr. Teresa Merino.

Yes Gabriel Orosco.

8. REPORT OF ACTIONS TAKEN IN CLOSED SESSION

8.A. Student Discipline (Pursuant to Education Code § 35146; § 48918 (c))

Actions:

Motion

Passed with a motion by Dr. Teresa Merino and a second by Leanne Ibarra.

Vote:

Yes Carolyn Castillo.
Yes Leanne Ibarra.

Yes Jose Lara.

Yes Dr. Teresa Merino.

Yes Gabriel Orosco.

Quick Summary / Abstract:

Student No. 08-2018/2019

Motion _____ Second _____ Vote _____

Minutes:

In Closed Session, the Board discussed the expulsion of student No. 08-2018/2019. The student shall be expelled from the El Rancho Unified School District with the enforcement of the expulsion suspended to allow the student to participate in the District Independent Studies Program from April 17, 2019 through June 6, 2019. The student will subsequently be transferred to Salazar High School at the beginning of the 2019/2020 school year.

**8.B. Public Employee Discipline/Dismissal/Release/Reassignment
(Pursuant to Government Code §54957)**

Minutes:

- Karling Aguilera-Fort announced in Closed Session, the Board took action to non-re-elect one (1) probationary certificated administrator, identified by number 18:19:03-06, for the 2019/2020 school year pursuant to Education Code 44929.21(b).

Motion Passed: Passed with a motion by Gabriel Orosco and a second by Leanne Ibarra.

No Carolyn Castillo

Yes Leanne Ibarra

Yes Jose Lara

No Dr. Teresa Merino

Yes Gabriel Orosco

- Karling Aguilera-Fort announced in Closed Session, the Board took action to reassign four (4) certificated administrators, identified by numbers 18:19:03-07, 18:19:03-08, 18:19:03-09, and 18:19:03-11 into classroom positions and one (1) certificated administrator, identified by number 18:19:03-10 into an alternate certificated administration position.

Motion Passed: Passed with a motion by Gabriel Orosco and a second by Leanne Ibarra.

No Carolyn Castillo

Yes Leanne Ibarra

Yes Jose Lara

No Dr. Teresa Merino

Yes Gabriel Orosco

9. STUDENT REPORTS

9.A. ASB President, El Rancho High School, Rene Gallegos.

9.B. ASB President, Ellen Ochoa Prep Academy, Katya Gutierrez.

9.C. ASB Spokesperson, Salazar High School, Jessica Madera.

10. AWARDS AND RECOGNITION

Quick Summary / Abstract:

This is the time on the agenda when the Board recognizes personnel, school(s), and/or District programs.

10.A. Recognition of the Pico Rivera Donnas Team.

Recommended Motion:



Indian Wells
(760) 568-2611
Irvine
(949) 263-2600
Los Angeles
(213) 617-8100
Ontario
(909) 989-8584

BEST BEST & KRIEGER[®]
ATTORNEYS AT LAW

655 West Broadway, 15th Floor, San Diego, CA 92101
Phone: (619) 525-1300 | Fax: (619) 233-6118 | www.bbklaw.com

Riverside
(951) 686-1450
Sacramento
(916) 325-4000
Walnut Creek
(925) 977-3300
Washington, DC
(202) 785-0600

Joseph Sanchez
(619) 525-1300
joseph.sanchez@bbklaw.com
File No. 60598.00023

October 14, 2019

VIA E-MAIL AND U.S. MAIL

Blaire Baily, Esq.
Regional Attorney Public Employment Relations Board
Los Angeles Regional Office
425 W. Broadway, Suite 400
Glendale, CA 91204

Re: *El Rancho Administrators & Supervisors Association v. El Rancho Unified School District*
Unfair Practice Charge No. LA-CE-6498-E

Dear Ms. Baily:

We represent the El Rancho Unified School District in the above-referenced matter. On October 4, 2019, you approved our request for an extension of one week to file the response statement until October 14, 2019 due to medical issues. Thank you and Mr. Boxer for your consideration in this matter.

Please let me know if you have any questions.

Sincerely,

Joseph Sanchez
of BEST BEST & KRIEGER LLP

cc: Jeffrey Boxer

STATE OF CALIFORNIA
PUBLIC EMPLOYMENT RELATIONS BOARD



NOTICE OF APPEARANCE FORM

CASE NAME: El Rancho Administrators & Supervisors Association

v.
El Rancho Unified School District

CASE NUMBER: LA-CE-6498-E

NAME OF PARTY: El Rancho Unified School District

DATE FILED: August 23, 2019

I, the undersigned party, hereby designate as my representative the person whose name and address appear below, and authorize such representative to appear on my behalf in this proceeding. This designation shall remain valid until I file a written revocation of it with the Public Employment Relations Board.

(Signature)
Dr. Frances Esparza
(Printed Name)
Superintendent
(Title)
October 14, 2019
(Date)

Consent to Electronic Service and Notice of
Electronic Service Address:

I consent to electronic service of notices and documents in the above-captioned case.

joseph.sanchez@bbklaw.com
(E-mail)

(BOARD AGENT: BHS)

Joseph Sanchez
(Name of Representative)
Partner
(Title)
Best Best & Krieger LLP
(Organization)
655 W. Broadway, 15th Floor
(Mailing Address)
San Diego CA 92101
(City) (State) (Zip)
619-525-1372
(Telephone Number) (Ext.)
619-233-6118
(Fax Number)

PROOF OF SERVICE

I declare that I am a resident of or employed in the County of San Diego,

State of California. I am over the age of 18 years. The name and address of my Residence or business is Best Best & Krieger LLP, 655 West Broadway, San Diego, CA 92101

On October 14, 2019, I served the Position Statement Letter, Notice of Appearance,
(*Date*) (Description of document(s))
and Confirmation of Extension of Time Letter in Case No. LA-CE-6498-E
(*Description of document(s) continued*) (PERB Case No.)

on the parties listed below by (check the applicable method(s)):

placing a true copy thereof enclosed in a sealed envelope for collection and delivery by the United States Postal Service or private delivery service following ordinary business practices with postage or other costs prepaid;

personal delivery;

facsimile transmission in accordance with the requirements of PERB Regulations 32090 and 32135(d).

electronic service (e-mail) - I served a copy of the above-listed document(s) by transmitting via electronic mail (e-mail) to the electronic service address(es) listed below on the date indicated. (*May be used only if the party being served has filed and served a notice consenting to electronic service or has electronically filed a document with the Board. See PERB Regulation 32140(b).)*

(Include here the name, address, e-mail address and/or fax number of the Respondent and/or any other parties served.)

Jeffrey Boxer
1888 Century Park E., Ste. 1150
Los Angeles, CA 90067-1727

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on October 14, 2019, at
(*Date*)
San Diego California

(*City*) (*State*)

Jannine South

(*Type or print name*)

(*Signature*)